

SENATE BILL No. 408

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-26; IC 8-23.

Synopsis: INDOT rules. Requires the department of transportation (INDOT) to adopt rules concerning the management of the right-of-way of the state highway system. Authorizes INDOT to acquire real property to place or relocate a utility within the right-of-way. Requires certain information to be provided within ten days of receiving a design locate notice.

Effective: September 1, 2004.

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January 12, 2004, read first time and referred to Committee on Transportation and Homeland Security.

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Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

SENATE BILL No. 408

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1-26-5.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 SEPTEMBER 1, 2004]: **Sec. 5.5. As used in this chapter, "design**
4 **locate notice" means a notice served:**

5 (1) **on the association described in section 17(c) of this**
6 **chapter;**

7 (2) **by a person responsible for the design of a public work;**
8 **and**

9 (3) **to request the approximate location and description of**
10 **underground facilities located in the vicinity of a public work.**

11 SECTION 2. IC 8-1-26-11.5 IS ADDED TO THE INDIANA CODE
12 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
13 SEPTEMBER 1, 2004]: **Sec. 11.5. As used in this chapter, "public**
14 **work" has the meaning set forth in IC 5-23-2-15.**

15 SECTION 3. IC 8-1-26-16.5 IS ADDED TO THE INDIANA CODE
16 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
17 SEPTEMBER 1, 2004]: **Sec. 16.5. A person responsible for the**



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design of a public work may submit a design locate notice.

SECTION 4. IC 8-1-26-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE SEPTEMBER 1, 2004]: Sec. 18. (a) Each operator or association notified under section 16 of this chapter shall, in two (2) full working days of receiving the notice of intent provided in section 16 of this chapter (unless a shorter period is provided by agreement between the person responsible for the excavation or demolition and the operator), **or within ten (10) full working days of receiving a design locate notice under section 16.5 of this chapter,** supply to the person responsible for the excavation or demolition, **or a person responsible for the design of a public work,** the following information, using maps when appropriate:

(1) The approximate location and description of all the operator's underground facilities that may be damaged as a result of the excavation or demolition.

(2) The location and description of all facility markers indicating the approximate location of the underground facilities.

(3) Any other information that would assist that person in locating and avoiding damage to the underground facilities, including providing adequate temporary markings indicating the approximate location of the underground facility and locations where permanent facility markers do not exist.

(b) Facility locate markings must consist of paint, flags, or stakes or any combination that mark the approximate location of the underground facilities.

(c) Color coding of facility locate markings indicating the type of underground facility must conform to the following color coding:

Facility and Type of Product	Specific Group Identifying Color
(1) Electric power distribution and transmission	Safety red
(2) Municipal electric systems	Safety red
(3) Gas distribution and transmission	High visibility safety yellow
(4) Oil distribution and transmission	High visibility safety yellow
(5) Dangerous materials, product lines, steam lines	High visibility safety yellow
(6) Telephone and telegraph	

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- 1 systems Safety alert
 2 orange
 3 (7) Cable television Safety alert
 4 orange
 5 (8) Police and fire
 6 communications Safety alert
 7 orange
 8 (9) Water systems Safety precaution
 9 blue
 10 (10) Sewer systems Safety green
 11 (11) Proposed excavation White
 12 (d) Each operator or association notified under section 16 of this
 13 chapter shall, within two (2) full working days of receiving the notice
 14 of intent provided in section 16 of this chapter, provide notification to
 15 the person responsible for the excavation or demolition if the operator
 16 has no facilities in the location of the proposed excavation or
 17 demolition.
 18 SECTION 5. IC 8-23-2-5 IS AMENDED TO READ AS FOLLOWS
 19 [EFFECTIVE SEPTEMBER 1, 2004]: Sec. 5. (a) The department,
 20 through the commissioner or the commissioner's designee, shall:
 21 (1) develop, continuously update, and implement:
 22 (A) long range comprehensive transportation plans;
 23 (B) work programs; and
 24 (C) budgets;
 25 to assure the orderly development and maintenance of an efficient
 26 statewide system of transportation;
 27 (2) implement the policies, plans, and work programs adopted by
 28 the department;
 29 (3) organize by creating, merging, or abolishing divisions;
 30 (4) evaluate and utilize whenever possible improved
 31 transportation facility maintenance and construction techniques;
 32 (5) carry out public transportation responsibilities, including:
 33 (A) developing and recommending public transportation
 34 policies, plans, and work programs;
 35 (B) providing technical assistance and guidance in the area of
 36 public transportation to political subdivisions with public
 37 transportation responsibilities;
 38 (C) developing work programs for the utilization of federal
 39 mass transportation funds;
 40 (D) furnishing data from surveys, plans, specifications, and
 41 estimates required to qualify a state agency or political
 42 subdivision for federal mass transportation funds;

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(E) conducting or participating in any public hearings to qualify urbanized areas for an allocation of federal mass transportation funding;

(F) serving, upon designation of the governor, as the state agency to receive and disburse any state or federal mass transportation funds that are not directly allocated to an urbanized area;

(G) entering into agreements with other states, regional agencies created in other states, and municipalities in other states for the purpose of improving public transportation service to the citizens; and

(H) developing and including in its own proposed transportation plan a specialized transportation services plan for the elderly and persons with disabilities;

(6) provide technical assistance to units of local government with road and street responsibilities;

(7) develop, undertake, and administer the program of research and extension required under IC 8-17-7; ~~and~~

(8) allow public testimony in accordance with section 17 of this chapter whenever the department holds a public hearing (as defined in section 17 of this chapter); **and**

(9) adopt rules under IC 4-22-2 to reasonably and cost effectively manage the right-of-way of the state highway system.

(b) Rules adopted under subsection (a)(9) may not adversely and materially affect the cost, safety, or reliability of a public utility service.

SECTION 6. IC 8-23-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE SEPTEMBER 1, 2004]: Sec. 2. The department may acquire real property for any purpose necessary to carry out this article, including the following:

(1) To locate, relocate, construct, reconstruct, repair, or maintain a state highway, **including area for:**

(A) the placement of a utility within the right-of-way of the state highway system; or

(B) the relocation of a utility within the right-of-way of the state highway system due to interference with a highway or bridge construction or improvement project on the state highway system.

(2) To widen or straighten a highway.

(3) To clear and remove obstructions to vision at crossings and curves.

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(4) To construct weigh stations and rest areas.

(5) To provide scenic easements and other areas necessary to cooperate with the federal government or carry out a federal law.

(6) To facilitate long-range transportation planning.

SECTION 7. IC 8-23-26-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE SEPTEMBER 1, 2004]: **Sec. 16. The department shall consider the following when adopting the rules required under IC 8-23-2-5(a)(9):**

(1) The temporary protection of utilities located in the right-of-way.

(2) As-built drawings showing the horizontal or vertical location of utilities that have been relocated.

(3) The identification and notification of the owner of a utility located in the right-of-way by the department.

(4) Requiring the owner of a utility located in the right-of-way to provide the department with a description and approximate location of the utility within a specified time.

(5) Sending, or making available in electronic format, the owner of a utility located in the right-of-way a copy of the project plans for the highway or bridge construction or improvement project on the state highway system, including the relocation area on the state highway system designated by the department for the utility.

(6) The department's requirements for work plans from the owners of utilities located in the right-of-way and for the relocation of the utilities.

(7) Coordinating the work of the owners of the utilities located in the right-of-way and the department's highway construction contractors.

(8) The financial responsibility of the department, the owners of utilities located in the right-of-way, and the department's highway construction contractors for delays and unnecessary costs.

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